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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,845	01/11/2001	John G. Spakousky	6739	9792

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/758,845

Applicant(s)

SPAKOUSKY, JOHN G.

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,8.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

Art Unit: 3637

*Applicant's election without traverse of claims 1-16 to figure 14 in Paper No. 7 is acknowledged. Non-elected claims 17-53 are cancelled.*

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 line 3 "independent of any other blocks" is indefinite. The independent claim 1 is only claiming 1 block, not multiple blocks. The claim language is thus confusing.

Claim 4 "normal position in use" is indefinite. It is unclear what would constitute a "normal position in use".

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Art Unit: 3637

2. Claims 1-4, 10-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Nehring (5570552).

Nehring shows a discrete pre-assembled composite block having an outer wall (22), an inner wall (24), at least one of which is load bearing and made from a first material, a connective structure (42) formed of a second material different from the first material and connected between the outer wall and the inner wall, the connective structure having two or more discrete connective struts, each strut extending between and being connected to both the outer wall and the inner wall to securely position the block, a wall connector (20) at each end of the struts to connect the strut to the outer wall and the inner wall, at least one wall connector having an elongated connector (parts 68, 52 and the outer solid part), for insertion in an elongated groove in one of the outer and inner wall, the elongated groove extending substantially vertically when the block is in its normal position, the strut comprising a first member (the solid part), a second member (68) joined substantially at right angles to form an elongated strut, a third member (52) together with the first and second members forming a channel shaped cross section (the opening between the parts), at least one of the struts being formed from one or more of the group consisting of a plastic, metal, or a metal alloy, the connective structure being low energy conductance (plastic).

3. Claims 1, 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Meendering (6293067).

Meendering shows a discrete pre-assembled composite modular block having an outer wall (10, 12', 12), an inner wall (12, 12', 10), at least one of which is load bearing and made from a first material, a connective structure (22) made of a second material different from the

Art Unit: 3637

first material and connected between the outer wall and the inner wall, the connective structure having two or more discrete connective struts, each strut extending between and being connected to both the outer wall and the inner wall, such that the outer wall and the inner wall being securely positioned with respect to one another as opposite faces of a discrete rectangular block, the wall connector (30) being a compressible V-shaped insert-type connector ( the interior forming a V-shaped ) with legs compressible toward each other for frictional engagement with a groove (26) formed on an inside surface of the outer wall or the inner wall, the V-shaped further comprise at least one rib-like formation (the rib besides part 30') integrally formed on the V-shaped structure to frictionally engage an adjacent wall upon insertion in a groove, the V-shaped structure further comprises at least one compression-limiting projection (the projection at the beginning of the opening of V-shaped) on the interior of the V-shaped structure, at least one connective strut having a wall connector in an elongated groove (26) in each of the inner and outer walls and the strut being positioned substantially flush ( figure 1) with the top of the outer wall and the inner wall.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different block structures..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A *PA*  
January 26, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

